



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

To: The Monroe County Planning Commission

From: Joseph Haberman, Principal Planner
Ralph Goulby, Sr. Administrator of Environmental Resources

Through: Townsley Schwab, Acting Sr. Director of Planning & Environmental Resources

Date: November 26, 2008

Subject: *Request for an Amendment to a Major Conditional Use Permit for Hurricane Hole Marina, located at 5110 Overseas Highway (US 1), Stock Island, mile marker 5, Real Estate Nos. 00123510.000000, 00132640.000000 & 00132640.000100*

Meeting: December 16, 2008

I REQUEST:

The applicant is requesting approval of an amendment to a major conditional use permit in order to redevelop the existing marina. The proposed redevelopment involves the construction of a new building/boat barn which would provide space for commercial retail, office, residential, light industrial and indoor dry boat storage uses; the construction of new outdoor dry boat storage racks; the demolition of several structures to accommodate the new development; and the carrying out of several miscellaneous site improvements.



Subject Property (outlined in blue) (2004)

1
2 Location:

3 Address: 5110 Overseas Highway (US 1), Stock Island, mile marker 5 (oceanside)

6 Legal Description: Lot 24, Sunkrest subdivision (PB1-107) & part bay bottom west of
7 and adjacent to Lot 24

9 Real Estate (RE) Numbers: 00123510.000000, 00132640.000000 & 00132640.000100

10
11 Applicant:

13 Owner: Libben Co. (RE 001235410.000000 & RE 00132640.000000) & Conch
14 Contrada LC (RE 00132640.000100)

16 Lessee: Historic Seaport District, Inc.

18 Agent: Barbara Mitchell, the Craig Company

19
20 II RELEVANT PRIOR COUNTY ACTIONS:

21
22 The property was being used as a marina prior to the adoption of the current land
23 development regulations in 1986. Therefore, in accordance with MCC §9.5-2(c), the site has
24 been deemed to have a major conditional use permit since 1986.

25
26 In 2000, Monroe County received an amendment to a major conditional use permit
27 application in order to redevelop the marina and construct additional development on the
28 property. The application was approved, memorialized in Planning Commission Resolution
29 P82-00.

30
31 On May 25, 2006, a Letter of Understanding (LOU) was sent to the applicant stating how a
32 previous redevelopment proposal could remain in compliance with the Monroe County Code.
33 Although the 2006 proposal is different than that proposed in this application, the LOU
34 provided a determination as to the amount of lawfully-established non-residential floor area
35 on the property which is pertinent to this application.

36
37 In 2006, Monroe County received an amendment to a major conditional use permit in order
38 to redevelop the marina and construct additional development on the property. The
39 application was scheduled to be heard at the September 26, 2006 meeting of the
40 Development Review Committee. However, due to outstanding issues regarding parking and
41 traffic, the application was tabled per the applicant's request.

42
43 Although similar in nature, the scope of work proposed in this major conditional use permit
44 application is different than that proposed in 2006. This application also includes the
45 redevelopment of an additional contiguous parcel, RE 00132640.000100, which was not part
46 of the 2006 application.

47
48 III BACKGROUND INFORMATION:

49
50 A. Size of Site (per site plan): 5.63 acres (3.29 acres upland and 2.34 acres wetland area)

51 B. Land Use District: Mixed Use (MU)

- 1 C. Future Land Use Map (FLUM) Designation: Mixed Use/Commercial (MC)
2 D. Tier Designation (of Parcel): Tier 3
3 E. Flood Zone: AE – EL 9
4 F. Existing Use: Marina / Commercial
5 G. Existing Vegetation / Habitat: Developed with areas of mangroves and buttonwood
6 along the shoreline
7 H. Community Character of Immediate Vicinity: Mixed Use – commercial, residential,
8 marina and golf course uses
9

10 **IV REVIEW OF APPLICATION:**
11

12 MCC §9.5-65 provides the standards which are applicable to all conditional uses. When
13 considering applications for a conditional use permit, the Planning Commission shall
14 consider the extent to which:
15

- 16 A. *The conditional use is consistent with the purposes, goals, objectives and standards of the*
17 *comprehensive plan and the land development regulations:*
18

19 The proposed development is consistent with the purposes, goals, objectives and
20 standards of the MC future land use category and the MU District.
21

22 Policies from the Monroe County Year 2010 Comprehensive Plan that directly pertain to
23 the proposed development include:
24

25 Policy 101.4.5: The principal purpose of the MC land use category is to provide
26 for the establishment of commercial zoning districts where various types of
27 commercial retail and office may be permitted at intensities which are consistent
28 with the community character and the natural environment. Employee housing
29 and commercial apartments are also permitted. This land use category is also
30 intended to allow for the establishment of mixed use development patterns, where
31 appropriate. Various types of residential and non-residential uses may be
32 permitted; however, heavy industrial uses and similarly incompatible uses shall be
33 prohibited. In order to protect environmentally sensitive lands, the following
34 development controls shall apply to all hammocks, pinelands, and disturbed
35 wetlands within this land use category: 1) only low intensity commercial uses
36 shall be allowed; 2) a maximum floor area ratio of 0.10 shall apply; and 3)
37 maximum net residential density shall be zero.
38

39 Policy 101.5.3: In order to encourage a compact form of non-residential growth,
40 the Permit Allocation System shall limit and direct new non-residential
41 development primarily to areas designated as Tier III under Goal 105 not located
42 within a designated Special Protection Area and provide incentives for
43 redevelopment of existing developed and vacant infill sites.
44

- 45 B. *The conditional use is consistent with the community character of the immediate vicinity:*
46

1 A marina has existed on the property for over 25 years. Regarding the additional land
2 uses, a mixed-use marina would be compatible with neighboring properties, an area
3 which is composed of a diverse mixture of marina, commercial retail, office and
4 residential uses. Therefore, the proposed development would be consistent with the
5 community character of the immediate vicinity.
6

7 *C. The design of the proposed development minimizes adverse effects, including visual*
8 *impacts, on adjacent properties:*
9

10 The applicant is proposing to construct all of the structures using architectural features
11 that provide visual interest. Similar design features and materials are proposed for all of
12 the proposed structures, which will make the development cohesive. Further, variations
13 in façade elements by means of material, texture and color will be used to reduce the
14 apparent mass of the boat barn.
15

16 In addition, as part of the redevelopment, additional trees and other landscaping elements
17 shall be introduced to the site. Therefore, the proposed development minimizes adverse
18 effects, including visual impacts, on adjacent properties.
19

20 *D. The proposed use will have an adverse impact on the value of surrounding properties:*
21

22 It is not anticipated that the proposed use will have an adverse impact on the value of the
23 surrounding properties.
24

25 *E. The adequacy of public facilities and services:*
26

27 Roads:
28

29 *Localized Impacts & Access Management:* Access to and from the development shall
30 be approved by the county's traffic consultant, the County Engineer and the Florida
31 Department of Transportation (FDOT) (See section I-22, Access Standards).
32

33 *Level of Service (LOS):* A traffic study shall be approved by the county's traffic
34 consultant (See section I-23, Traffic Study).
35

36 Stormwater: The applicant shall coordinate with the County Engineer and the South
37 Florida Water Management District (SFWMD) to determine compliance with all
38 applicable regulations (See section I-9, Surface Water Management Criteria).
39

40 Sewer: The applicant shall coordinate with the Florida Department of Health, Florida
41 Department of Environmental Protection and/or Key West Resort Utilities Corp.
42 (KWRU) to determine compliance with all applicable regulations (See section I-10,
43 Wastewater Treatment Criteria).
44

45 Emergency Management: The applicant shall coordinate with the Office of the Fire
46 Marshal to determine compliance with the Florida Fire Prevention Code, the Florida

Building Code, the National Fire Protection Code (NFPA 1) and the Life Safety Code (NFPA 101). Assistant Fire Marshal, Steven Zavalney, reviewed the project and provided a letter of coordination, dated June 29, 2008, which provides the requirements for the Office's approval of the project. The Office is requiring that the existing facilities be brought into compliance with the codes mentioned above.

F. *The applicant has the financial and technical capacity to complete the development as proposed:*

Staff has no evidence to support or disprove the applicant's financial and technical capacity.

G. *The development will adversely affect a known archaeological, historical or cultural resource:*

There are no known archaeological, historical or cultural resources on the site.

H. *Public access to public beaches and other waterfront areas is preserved as part of the proposed development:*

Public access means the ability of the public to physically reach, enter or use beaches and shores. The property has access to the Cow Key Channel to the west. The site has a dockage; however, the property and the dock are and shall remain under private ownership. The public will continue to have limited access to the waterfront area as customers of the marina, restaurant and other water-related businesses. Therefore, the proposed development will not have an adverse impact on public access to a waterfront area.

I. *The project complies with all additional standards imposed on it by the Land Development Regulations:*

1. Residential Rate of Growth Ordinance (ROGO) (§9.5-120): *In compliance following receipt of one (1) ROGO allocation.*

There are no existing residential dwelling units on the property. One (1) affordable housing unit is proposed.

2. **Non-Residential Rate of Growth Ordinance (NROGO) (§9.5-124): *Compliance to be determined.***

The NROGO shall not apply to the redevelopment, rehabilitation or replacement of any lawfully-established non-residential floor area which does not increase the amount of non-residential floor area greater than that which existed on the site prior to the redevelopment, rehabilitation or replacement.

There is existing non-residential floor area on the property:

| Existing Non-Residential Floor Area Lawfully-Established per LOU dated 5/25/2006 (RE's 001235410.000000 & 00132640.000000 only)* | Use | Floor Area |
|--|-------------------|------------------------|
| Restaurant | Commercial Retail | 3,895 ft ² |
| Retail Shop | Commercial Retail | 576 ft ² |
| Dive Shop | Commercial Retail | 1,000 ft ² |
| Shed/Office | Office | 100 ft ² |
| Retail Building | Commercial Retail | 975 ft ² |
| Bathhouse | Marina | 393 ft ² |
| RE's 001235410.000000 & 00132640.000000 Total | | 6,939 ft ² |
| Vested Non-Residential Floor Area Lawfully-Established per LOU dated 5/25/2006 (RE 00132640.000000 only)** | Use | Floor Area |
| Vested, not in existence | n/a | 7,500 ft ² |
| RE 00132640.000000 Total | | 7,500 ft ² |
| Existing/Vested Total | | 14,439 ft ² |

* Based on approved site plan for P82-00

** Based on settlement agreement between Conch Contrada LC and Monroe County

In a LOU dated May 25, 2006, the Planning Department provided a determination that there was 12,819 ft² of floor area on the parcels identified as RE's 001235410.000000 and 00132640.000000. However, the letter states that only 6,939 ft² of the floor area met the definition of non-residential floor area. The remaining 5,880 ft² of floor area was attributed to the existing, covered dry boat storage rack.

In addition, the LOU explained that there were vested rights to non-residential floor area associated with the parcel identified as RE 00132640.000000, although it is currently vacant. On July 17, 2002, Monroe County entered into a Settlement Agreement (Case No. CAK-01-108) with Conch Contrada LC which maintained that no building permit shall be denied on the basis of Monroe County's regulations relating to the adoption of a non-residential permit allocation system or its equivalent. Therefore, the settlement agreement allowed the property owner to construct a 7,500 ft² restaurant without entering the NROGO permit allocation system. The restaurant was never constructed. In 2003, the settlement agreement was amended to allow an alternate use of a 7,500 ft² medium-intensity, mixed use retail and/or office/professional use facility. As before, the settlement agreement allowed the property owner to construct the 7,500 ft² of floor area without entering the NROGO permit allocation system. The settlement agreement was further amended in 2006 and 2007 to authorize extensions to the time period for building permit application.

The following non-residential floor area is proposed:

| Proposed Non-Residential Development | Use | Floor Area |
|--|-------------------|-----------------------|
| Restaurant – indoor seating (existing, to remain) | Commercial Retail | 3,895 ft ² |
| Restaurant – outdoor seating (existing; however without benefit of a permit) | Commercial Retail | 1,240 ft ² |
| Retail Shop (existing, to remain) | Commercial Retail | 576 ft ² |
| Dive Shop (existing, to remain) | Commercial Retail | 1,000 ft ² |

| | | |
|--|-------------------|------------|
| Shed/Office (existing, to remain) | Office | 100 ft² |
| Retail Building (existing, to be demolished) | Commercial Retail | 0 ft² |
| Bathhouse (existing, to remain) | Marina | 393 ft² |
| Fish Market/Office (proposed)* | Mixed Use | 1,688 ft² |
| Boat Barn (proposed)** | Mixed Use | 5,120 ft² |
| Proposed Total | | 14,012 ft² |

* Includes 940 ft² for commercial retail & 748 ft² for office

** Includes 2,252 ft² for commercial retail, 578 ft² for office, 2,290 ft² for boat maintenance, 578 ft² for affordable housing (not considered non-residential floor area) & 3,772 ft² of boat storage area (not considered non-residential floor area)

The applicant is proposing to demolish the existing 975 ft² retail building and establish 8,048 ft² of new non-residential floor area, which would result in a net increase of 7,073 ft² of non-residential floor area. Since the amount of proposed non-residential floor area does not exceed 14,439 ft², the applicant does not have to receive any non-residential floor area through the NROGO permit allocation system.

Concerning the floor area on the property for boat storage only, the applicant is proposing to demolish a section of the existing 5,880 ft² dry boat rack structure (which is covered and partially enclosed) and construct a new boat barn. As a result, there would be 2,055 ft² of floor area remaining within the dry boat rack structure (84.2 ft x 24.4 ft) and 3,772 ft² of floor area for boat storage within the boat barn (approximately 137.25 ft x 33 ft). The property consists of 143,312 ft² (3.29 acres) of upland area and 114,650 ft² of net buildable area. The total floor area of the boat barns and boat storage racks is 5,827 ft², an amount that does not exceed 50 percent of the net buildable area, which is permissible and not considered non-residential floor area in accordance with MCC §9.5-124. In addition, there is another proposed dry boat storage rack for 24 boats, which is not indicated as covered.

3. Purpose of the MU District (§9.5-219): *In compliance.*

The purpose of the MU District is to establish or conserve areas of mixed uses, including commercial fishing, resorts, residential, institutional and commercial uses, and preserve these as areas representative of the character, economy and cultural history of the Florida Keys.

4. Permitted Uses (§9.5-248): *In compliance following the receipt of required conditional use permit.*

Marinas may only be permitted with a major conditional use permit and provided that a) the parcel proposed for development has access to water at least four feet below mean sea level at mean low tide; b) the sale of goods and services is limited to fuel, food, boating, diving and sport fishing products; c) all outside storage areas are screened from adjacent uses by a solid fence, wall or hedge at least six feet in height; and d) each non waterside perimeter setback of the parcel proposed for development must have a class-C buffer-yard within a minimum side yard setback of 10 feet.

Medium intensity commercial retail and office uses, or any combination thereof, of greater than 2,500 ft² but less than 10,000 ft² of floor area may be permitted with minor conditional use permit approval, provided that there is access to US 1 by way of a) an existing curb cut; b) a signalized intersection; or c) a curb cut that is separated from any other curb cut on the same side of US 1 by at least 400 feet.

Attached residential dwelling units may be permitted with minor conditional use permit approval, provided that the total number of units does not exceed four and the structures are designed and located so that they are visually compatible with established residential development within 250 feet of the parcel proposed for development.

5. Residential Density and Maximum Floor Area Ratio (§9.5-262, §9.5-267 & §9.5-269): *In compliance.*

The following maximum land use intensity regulations apply:

| Land Use | FAR / Density | Size of Site (upland) | Max Allowed | Proposed | Potential Used |
|--|---------------------------|-----------------------------------|------------------------|-----------------------|----------------|
| Commercial Retail ⁱ (high-intensity) | 0.15 | 143,312 ft ² | 21,496 ft ² | 5,135 ft ² | 23.9% |
| Commercial Retail ⁱⁱ (Medium-Intensity) | 0.25 | 143,312 ft ² | 35,828 ft ² | 5,161 ft ² | 14.4% |
| Office ⁱⁱⁱ | 0.40 | 143,312 ft ² | 57,324 ft ² | 1,426 ft ² | 2.5% |
| Light Industry ^{iv} | 0.30 | 143,312 ft ² | 42,993 ft ² | 2,290 ft ² | 5.3% |
| Total | | | | | 46.1% |
| Affordable Housing | 18 units / buildable acre | 3.29 acres (2.63 buildable acres) | 47 units | 1 unit | 2.1 % |

i Includes 3,895 ft² restaurant & 1,240 ft² outdoor seating

ii Includes 576 ft² retail shop, 1,000 ft² dive shop, 940 ft² fish market, 2,252 ft² of commercial retail area within boat barn & 393 ft² bathhouse (no marina FAR)

iii Includes 100 ft² shed/office, 748 ft² of floor area within fish market & 578 ft² of office area within boat barn

iv Includes 2,290 ft² of light industry within boat barn

Concerning the floor area on the property for boat storage, the total floor area of the boat barns and covered boat storage racks is 5,827 ft², an amount that does not exceed 50 percent of the net buildable area, which is not considered floor area in accordance with MCC §9.5-124. In addition, there is a boat storage rack for 24 boats, which is not indicated as covered.

Pursuant to MCC §9.5-266, affordable housing on parcels classified as MU may be developed at an intensity up to a maximum net residential density of 18 dwelling units per buildable acre. Furthermore, when calculating density, any affordable housing on a parcel and the floor area thereof shall be excluded from the calculation of the total gross non-residential floor area development that may be lawfully-established on the parcel.

6. Required Open Space (§9.5-269 & §9.5-347): *In compliance.*

There is a required open space ratio of 0.20. In total, the property consists of approximately 143,312 ft² of upland area. Therefore, at least 28,662 ft² of the total land area must remain open space. The site plan indicates that there would be 43,363 ft² of open space area.

7. Minimum Yards (§9.5-281 & §9.5-349): *In compliance.*

The required non-shoreline setbacks are as follows: Front yard – 15 feet; Rear yard – 20 feet; and Side yard – 10/15 feet (where 10 feet is the required side yard for one side and 15 feet is the minimum combined total of both side yards). In addition, there is a shoreline setback requirement of 20 feet for principal structures.

There is an existing propane tank within the non-shoreline front yard setback along US 1. In addition, part of the existing 3,895 ft² restaurant, part of the existing 1,000 ft² dive shop and the existing 100 ft² shed/office are within the shoreline setback. Staff has found that these structures were lawfully-established and may remain, assuming they will not be substantially improved.

The proposed 1,240 ft² outdoor seating area, currently in existence but without the benefit of a permit, is located within the shoreline setback. Pursuant to MCC §9.5-349(o), special approvals, for structures serving commercial uses, the planning commission may approve deviations from the requirements of the shoreline setback as part of a major conditional use permit. Such approval may include additional structures or uses provided that such approval is consistent with any permitted uses, densities and intensities of the land use district, furthers the purposes of MCC §9.5-349, is consistent with the general standards applicable to all uses and the proposed structures are located in a disturbed area of an altered shoreline. Such additional uses are limited to waterfront dining areas, pedestrian walkways, public monuments or statues, informational kiosks, fuel or septic facilities and water-dependent marina uses. Any such development shall make adequate provision for a water quality monitoring program for a period of five years after the completion of the development.

Note: According to the site plan, the applicant is providing a 5-foot setback along the eastern non-shoreline property line. Pursuant to MCC §9.5-248, each non-waterside perimeter setback must have a class-C buffer-yard within a minimum side yard setback of 10 feet. Although a 5 foot setback is shown, development does begin for 10 feet. The site plan must be amended to show a 10-foot setback.

8. Maximum Height (§9.5-283): *Compliance to be determined.*

The building elevations indicate that the building height would be 37 feet, 8 inches for the proposed boat barn building. At the DRC meeting on November 17, 2008, the

applicant indicated that this figure was incorrect and revised elevations would be submitted.

9. Surface Water Management Criteria (§9.5-293): *Compliance to be determined by the County Engineer and SFWMD prior to issuance of a building permit.*

The applicant submitted a conceptual drainage plan. The County Engineer, David Koppel, reviewed the project and provided a letter of coordination, dated July 29, 2008. The SFWMD reviewed the project and provided a letter, dated May 10, 2006, which states that the proposal should be processed by the SFWMD and that permits may be required.

10. Wastewater Treatment Criteria (§9.5-294): *Compliance to be determined by Florida Department of Health, Florida Department of Environmental Protection and/or Key West Resort Utilities Corp. (KWRU) prior to the issuance of a building permit.*

KWRU issued a letter of coordination, dated August 1, 2008, which states that at this time, KWRU has the capacity to treat the sewage that will be generated from the proposed development.

11. Fencing (§9.5-309): *Compliance to be determined upon submittal to Building Department.*

No new fencing is proposed as part of this application.

12. Floodplain Management (§9.5-316 & §9.5-317): *Compliance to be determined upon submittal to Building Department.*

The site is designated within AE – EL 9 flood zone on the Federal Emergency Management Agency's flood insurance rate maps. All new structures must be built to floodplain management standards that meet or exceed those for flood protection.

13. Energy Conservation Standards (§9.5-326): *In compliance.*

The development proposal includes the provision of bicycle racks; the installation of native plants, which will reduce the requirements for water and maintenance; the installation of several shade trees, which will provide shade for parking areas; and the provision of structural shading.

14. Potable Water Conservation Standards (§9.5-327): *Compliance to be determined upon submittal to Building Department.*

Florida Keys Aqueduct Authority (FKAA) issued a letter of coordination for the project, dated July 17, 2008, which states there is a two inch water main located on the US 1, in front of the site, which does not appear adequate to serve the proposed development. A water main extension may be necessary to serve the development;

however a final determination cannot be made until FKAA reviews a complete set of architectural and civil plans.

15. Environmental Design Criteria and Mitigation Standards (§9.5-345 & §9.5-346):
Compliance to be determined upon submittal to Building Department.

There are several protected trees located on the eastern portion of the property along US 1 that are anticipated to remain in place as part of the required buffer-yard. However, if the trees are removed, they will be transplanted to another location on the property.

16. Required Parking (§9.5-352): *In compliance.*

The development would be subject to the following off-street parking requirements:

| <i>Specific Use</i> | <i>Multiplier</i> | <i>Proposed</i> | <i>Required Spaces</i> |
|---|-----------------------------------|-----------------------|------------------------|
| Restaurant (indoor seating) | 14 spaces / 1,000 ft ² | 3,895 ft ² | 54.53 |
| Restaurant (outdoor seating) | 7 spaces / 1,000 ft ² | 1,240 ft ² | 8.68 |
| Commercial Retail | 3 spaces / 1,000 ft ² | 5,161 ft ² | 15.48 |
| Office | 3 spaces / 1,000 ft ² | 1,426 ft ² | 4.28 |
| Light Industry | 2 spaces / 1,000 ft ² | 2,290 ft ² | 4.58 |
| Dwelling Unit (single-family) | 2 spaces / unit | 1 unit | 2.00 |
| Marina (wet slips or berths)* | 1 space / berth | 34 wet slips | 34.00 |
| Marina (dry slips)** | 1 space / 4 dry racks | 104 dry slips | 26.00 |
| Charter/guide boats, 6 or fewer passengers capacity * | 2 spaces / berth | 8 wet slips | 16.00 |
| Total | | | 165.55 |

* 8 of the 42 wet slips shall be for charter/guide boats

** Includes 26 slips in existing covered boat rack, 54 slips in proposed boat barn & 24 slips in proposed boat rack

Using the shared-parking calculator, the development would be subject to the following reduced off-street parking requirements:

| <i>Specific use</i> | <i>Night</i> | <i>Weekday</i> | | <i>Weekend</i> | |
|--|--------------|----------------|----------|----------------|----------|
| | 12AM- 6AM | 9AM-4PM | 6PM-12AM | 9AM-4PM | 6PM-12AM |
| Marina (76.00 spaces) | 3.8 | 53.2 | 7.6 | 76.0 | 15.2 |
| Residential (2.00 spaces) | 2.0 | 1.2 | 1.8 | 1.6 | 1.8 |
| Office/Industrial (8.86 spaces) | 0.4 | 8.9 | 0.9 | 0.9 | 0.5 |
| Commercial Retail (15.48 spaces) | 0.8 | 9.3 | 13.9 | 15.5 | 10.8 |
| Eating Establishment (63.21 spaces) | 6.3 | 25.3 | 63.2 | 50.6 | 63.3 |
| Total | 13.3 | 97.8 | 87.4 | 144.5 | 91.5 |

According to the proposed site plan, 147 off-street parking spaces would be provided. This would be in compliance with the 145 required.

Note: As part of any approval, staff shall recommend that the incorrect off-street parking figures shown on the site plan be modified. In addition, staff shall recommend that the following language be removed the site plan: "wet boat storage (new) is pending and only required if DEP approves new proposed (future) wet slips" (unless the applicant removes the proposed 10 wet slips from the scope of work of this application) and "Assumed 2 scooter spaces substitutes 1 parking spot" (this information is not correct).

Handicap Parking: According to the site plan, five of the off-street parking spaces provided would be handicap-accessible only. This is compliant with the 2004 Florida Accessibility Code for Building Construction, which states that if 101 to 150 parking spaces are provided, five spaces are required to be handicap-accessible parking only.

Bicycle/Scooter Parking: There are existing bicycle racks on the property and 11 scooter/motorcycle parking spaces shown on the site plan.

17. Required Loading and Unloading Spaces (§9.5-354): *In compliance.*

All non-residential uses with 2,500 ft² to 49,999 ft² of floor area are required to have at least one loading/unloading space, measuring 11 feet by 55 feet.

18. Required Landscaping (§9.5-361, §9.5-362, §9.5-363 & §9.5-364): *In compliance.*

Since the parking area is to contain six or more spaces, a class-C landscaping standard is required.

19. Required Buffer-yards (§9.5-377, §9.5-378 & §9.5-379): *Not in compliance.*

A class-B major street buffer-yard is required along the US 1 property line, a class-C land use district buffer-yard is required along a portion of the southern property line (the adjacent properties across the canal to the south are designated as Urban Residential Mobile Home (URM)) and a class-C buffer-yard is required within the non-waterside perimeter setback along the eastern property line. A class-B major street buffer-yard shall be provided and regarding the class-C land use district buffer-yard, in the LOU dated May 25, 2006, the Planning Department determined that the existing vegetation along the southern shoreline would serve as the required buffer and no additional planting would be required (as a note, on the conceptual landscape plan, this buffer-yard is incorrectly indicated as a class-A).

Regarding the class-C buffer-yard along the eastern property line, the applicant applied a class-B "boat barn" buffer-yard. However, pursuant to MCC §9.5-248, a more restrictive class-C bufferyard is required for the marina use. The landscape plan must be amended to show a 10-foot setback and class-C buffer-yard.

1
2 20. Outdoor Lighting (§9.5-391, §9.5-392 & §9.5-393): *Compliance to be determined*
3 *upon submittal to Building Department.*

4
5 The locations of site lighting are shown on the site plan.

6
7 21. Signs (§9.5-404 & §9.5-405): *Compliance to be determined upon submittal to*
8 *Building Department.*

9
10 No new signage is proposed as part of this application.

11
12 22. Access Standards (§9.5-421 & §9.5-427): *Compliance to be determined.*

13
14 Access to and from the development would be from a new entry drive on US 1. The
15 existing access drive would be removed. Following a review of the 2006
16 application, the county's traffic consultant was concerned with how intensification to
17 the site would affect the site's existing access. In response, since 2006, the applicant
18 has modified the proposal to be less intense in terms of traffic generation and
19 coordinated with the Florida Department of Transportation (FDOT) concerning a
20 modified access drive and improvements to the segment of US 1 adjacent to the site.
21 The applicant submitted a preliminary connection plan.

22
23 The county's traffic consultant has reviewed the site plan/connection plan and
24 recommended that a condition be placed on any approval that the applicant take
25 positive steps to eliminate the probability of vehicles from utilizing the abandoned
26 driveway to enter and exit the site. As of the date of this report, FDOT has not
27 provided a letter of coordination. This letter shall be required prior to any approval.

28
29 23. Traffic Study (§9.5-426): *In compliance.*

30
31 The analysis states that the proposed redevelopment would generate 921 daily trips.
32 The existing development generates 701 daily trips. This is a difference of 220 new
33 daily trips. The traffic impact report indicated that there is adequate traffic capacity
34 for the development and its findings were approved by the county's traffic consultant.

35
36 24. Clear Sight Triangle (§9.5-427): *In compliance.*

37
38 Site triangles are shown on the site plan.

39
40 25. Chapter 533, Florida Statutes: *Full compliance to be determined upon submittal to*
41 *Building Department.*

42
43 The handicap parking spaces are located in proximity to the building entrances and
44 would have access aisles. Compliance of signage requirements shall be determined
45 upon submittal to the Building Department.

Other Issues:

1. The applicant has proposed that the redevelopment occur in three phases:

- 1) Demolish 975 ft² retail building; carry out site improvements, including US 1 access improvements; carry out some landscaping improvements; and construct Fish Market/Office building
- 2) Construct Boat Barn building (with commercial/boat maintenance space and affordable housing unit); modify existing covered boat storage rack; and carry out stormwater and landscaping improvements
- 3) Modify canal dockage and carry out final landscaping improvements

Unless otherwise specified in the approved conditional use approval, application for a building permit(s) shall be made within six months of the date of the approval of the conditional use, and all required certificates of occupancy shall be procured within two years of the date of issuance of the initial building permit, or the conditional use approval shall become null and void with no further action required by the county.

2. The applicant has proposed the addition of 10 wet slips:

Currently, there are 32 existing wet slips on the site. The applicant is proposing to modify the configuration of the dockage, which would allow the establishment of 10 additional wet slips, creating a new total of 42 wet slips. Approval from the Florida Department of Environmental Protection (FDEP) and US Army Corps of Engineers (ACOE) is required for the reconfiguration and expansion.

3. The Marine Facilities/Working Waterfront Interim Development Order (IDO) - Ordinance 015a-2008:

The marina is an existing facility and staff has found that proposed redevelopment would not be affected by the IDO.

4. Aggregation of development:

At this time, the parcels are not under common ownership. They are owned by two separate entities, Libben Co. and Conch Contrada LC. Pursuant to MCC §9.5-271, any development which has or is a part of a common plan or theme of development or use, including but not limited to an overall plan of development, common or shared amenities, utilities or facilities, shall be aggregated for the purpose of determining permitted or authorized development and compliance with each and every standard of the land development regulations and for the purpose of determining the appropriate form of development review.

An approved major conditional use permit shall aggregate the three parcels. Staff shall recommend a condition that any separation of the parcels shall constitute an amendment to the major conditional use permit. In the event that the parcels are

separated in the future, any floor area from the settlement agreement used on the Libben Co. parcels, currently identified as RE's 001235410.000000 and RE 00132640.000000, shall relinquish rights from the Conch Contrada LC parcel, currently identified as RE 00132640.000100.

5. NROGO:

As mentioned previously, the County entered into a settlement agreement with Conch Contrada LC allowing the construction of up to 7,500 ft² of non-residential floor area on the property without the applicant needing to enter the NROGO permit allocation system (for a restaurant or a medium-intensity, retail/office/professional use facility only). However, pursuant to the Fifth Amended Settlement Agreement (dated 2007), the County agreed to process the building permit application for the 7,500 ft² of non-residential floor area within ROGO Year 16 (July 14, 2007 through July 13, 2008).

The July 13, 2008 deadline has passed. The applicant has stated that an additional extension has been granted and that an amended settlement agreement would be provided. As of the date of this report, no documentation has been submitted to staff.

V RECOMMENDED ACTION:

Staff recommends **APPROVAL** to the Planning Commission if all the following conditions are met:

- A. Prior to the issuance of a resolution by the Planning Commission, the applicant shall submit an amended Settlement Agreement concerning Case No. CAK-01-108, which extends the timeframe for a building permit application for the 7,500 ft² of non-residential floor area to beyond ROGO Year 16.
- B. Prior to the issuance of a resolution by the Planning Commission, the site plan shall be revised to show the boundaries of the 1,240 ft² outdoor seating area, to show the location of the existing fuel pump, to show the required 10-foot setback along the eastern property line and to reflect the off-street parking/land use intensity figures included in this staff report. In addition, the language "wet boat storage (new) is pending and only required if DEP approves new proposed (future) wet slips" and "Assumed 2 scooter spaces substitutes 1 parking spot" shall be removed the site plan.
- C. Prior to the issuance of a resolution by the Planning Commission, the landscape plan shall be revised to show the required class-C land use district buffer-yard along the southern property line, adjacent to the URM District, and the required class-C buffer-yard along the eastern property line.
- D. Prior to a resolution by the Planning Commission, the applicant shall submit a revised building elevation that indicates that the proposed Boat Barn building will be in compliance with §9.5-283 of the Monroe County Code.

- 1 E. Prior to the issuance of a building permit, the applicant shall submit a letter of
2 coordination from the Florida Department of Transportation providing the
3 department's approval of the proposed connection plan to US 1.
4
- 5 F. Prior to the issuance of a building permit, the applicant shall receive all required
6 permits and approvals from the United States Army Corps of Engineers, Florida
7 Department of Environmental Protection, South Florida Water Management District,
8 Florida Department of Health and the Florida Department of Transportation.
9
- 10 G. Prior to the issuance of a building permit, the proposed development and buildings
11 shall be found in compliance by the Monroe County Building Department, the
12 Monroe County Floodplain Administrator, the Monroe County Engineer and the
13 Monroe County Office of the Fire Marshal.
14
- 15 H. Prior to the issuance of a building permit for its completion, an allocation for the
16 affordable housing unit shall be acquired through the ROGO allocation system.
17
- 18 I. In the event that either the Florida Department of Environmental Protection or US
19 Army Corps of Engineers deny an application(s) for the establishment of the 10
20 additional wet slips, the applicant shall submit a minor deviation application, with a
21 revised site plan that removes mention of the 10 wet slips, to the Planning &
22 Environmental Resources Department.
23
- 24 J. In accordance with Policy 401.1.3 of the Year 2010 Comprehensive Plan, the
25 property owner shall continue to work with Monroe County to establish a bike path
26 on the site along US 1 and shall reserve sufficient right-of-way for such future
27 improvements.
28
- 29 K. The applicant shall take positive steps to eliminate the probability of vehicles from
30 utilizing the abandoned driveway to enter and exit the site.
31
- 32 L. The affordable housing unit shall be deed restricted in accordance with §9.5-4(A-5)
33 of the Monroe County Code. Occupants of the unit must meet all requirements for
34 occupancy of affordable housing as set forth in the Monroe County Code.
35
- 36 M. The floor area of the boat barn approved for boat storage may only be used for the
37 storage of boats and associated equipments.
38
- 39 N. This major conditional use permit shall aggregate the three parcels in accordance with
40 §9.5-271 of the Monroe County Code. Any separation of the parcels shall constitute
41 an amendment to the major conditional use permit. In the event that the parcels are
42 separated in the future, any floor area from the settlement agreement used on the
43 Libben Co. parcels, currently identified as real estate numbers 001235410.000000
44 and RE 00132640.000000, shall relinquish rights from the Conch Contrada LC
45 parcel, currently identified as real estate number 00132640.000100.
46

VI PLANS REVIEWED:

- A. Architectural Site Plan (A1.01) by mbi | k2m Architecture, dated August 1, 2008;
- B. First and Second Floor Plans – Boat Barn (A2.1.1) by mbi | k2m Architecture, dated August 1, 2008;
- C. Third Floor Plan and Roof Plan – Boat Barn (A2.1.2) by mbi | k2m Architecture, dated August 1, 2008;
- D. Exterior Elevations – Boat Barn (A3.1.1) by mbi | k2m Architecture, dated August 1, 2008;
- E. First Floor, Second Floor and Roof Plans – Fish Market (A2.1.1) by mbi | k2m Architecture, dated August 1, 2008;
- F. Exterior Elevations – Fish Market (A3.1.1) by mbi | k2m Architecture, dated August 1, 2008;
- G. Conceptual Drainage Plan (C-1) by Perez Engineering & Development, Inc., dated July 30, 2008;
- H. Preliminary FDOT Connection Plan (C-2) by Perez Engineering & Development, Inc., dated July 29, 2008;
- I. Conceptual Landscape Plan (L1.01) by mbi | k2m Architecture & the Craig Company, dated April 1, 2008 and revised August 1, 2008;
- J. Boundary Survey by Frederick H. Hildebrandt, dated April 12, 1995, revised July 30, 2008;
- K. Traffic Study by Carter & Burgess, dated July 2008